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May 13, 1993

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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VIA HAND DELIVERY

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20036

RE: MM Docket No. 93-93
BPET-900904KF
Bakersfield, California

Dear Ms. Searcy:

Transmitted herewith on behalf of Valley Public Television, Inc., are an original and six (6) copies of its Petition for Leave To Amend in connection with its above-referenced

BEFORE THE

Federal Communications Commission RECEIVED

WASHINGTON, D.C. 20554

MAY 13 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM Docket No. <u>93-93</u>
)	
COMMUNITY TV OF)	BPET-881012KE
SOUTHERN CALIFORNIA)	
)	
VALLEY PUBLIC TELEVISION, INC.)	BPET-900904KE
)	
For Construction Permit)	
For a New TV Station on)	
Channel *39)	
Bakersfield, CA)	

Directed to: The Honorable Arthur I. Steinberg
Administrative Law Judge

**PETITION FOR LEAVE TO AMEND
SUMMARY**

Herein Valley Public Television, Inc. (Valley), respectfully petitions, pursuant to Section 73.3522(b)(2) of the Commission's Rules, for leave to amend its above-captioned application. Valley's amendment is being submitted within the 30 day time period established in Section 73.3522(b)(2) for amendments filed relating to issues raised in the hearing designation order. Valley's amendment proposes a new transmitter site location to eliminate the need for hearing on the short-spacing issue specified in the hearing designation order in the instant proceeding, Community TV of Southern California, 58 Fed. Reg. 19,255 (April 13, 1993).

Valley's amendment also meets the requirements of Section 73.3522(b)(1) of the rules, including the specific requirements

for engineering issues. Valley demonstrates herein that good cause exists for acceptance of the amendment, which meets the test set forth in Erwin O'Conner Broadcasting Co., 22 F.C.C. 2d 140, 143 (1970).

Finally, Valley demonstrates that acceptance of its amendment is also consistent with the Commission's recent decision in Montgomery County Media Network, Inc. d/b/a Imaqists, FCC 93-196, slip op. (released April 21, 1993).

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Imagists, FCC 93-196, slip op. at 3 n. 15 (released April 21, 1993) (hereinafter referred to as Imagists), Section 73.3522(b) "affords applicants 30 days after the designation order to file amendments addressing any matter raised therein as a matter of right and provides that amendments filed more than 30 days after the designation order must be supported by good cause." Valley is submitting its amendment within the 30 day period established for amendments as of right in Section 73.3522(b)(2).

The Commission first raised a short-spacing issue against Valley in the Hearing Designation Order (HDO) in the instant proceeding. A summary of the HDO was published in the Federal Register on April 13, 1993, Community TV of Southern California, 58 Fed. Reg. 19,255 (April 13, 1993). Simultaneously herewith, Valley is submitting an amendment to relocate its transmitter site to a site that meets all mileage separation requirements, so as to resolve without hearing the short-spacing issue. Valley's amendment is therefore being submitted timely and as a matter of right, pursuant to Section 73.3522(b)(2) of the Rules.

Valley's amendment follows the "settled Commission practice" recently discussed by the Chief of the Video Services Division in Unicorn Slide, 8 FCC Rcd 318 n. 2 (Mass Media Bureau 1993). In Unicorn Slide, the staff dismissed a motion to dismiss or deny that had been filed by one mutually exclusive applicant against the other, noting that the motion was in essence an improperly

filed predesignation petition to specify issues.¹ The staff observed in dismissing the motion to dismiss that the petitioner requested dismissal of its opponent's application because the application proposed a short-spaced transmitter site but did not include a waiver request. The staff disagreed, noting that:

"[I]t is settled Commission practice when considering mutually exclusive television applications containing short-spaced proposals, with or without waiver requests, to specify an appropriate issue in the hearing designation order."

8 FCC Rcd at 318 n. 2.

Moreover, the Commission noted in Unicorn Slide, prior to designation the short-spaced applicant had submitted amendments specifying new transmitter sites and thereby eliminated the need to specify a short-spacing issue. Noting that, under Section 73.3522(b)(2) of the Commission's Rules, "amendments may be filed as a matter of right...to eliminate issues specified in the Order" designating mutually exclusive applications for hearing, the Chief of the Video Services Division reasoned that it "would be a waste of valuable Commission resources" to reject the pre-designation amendment, "which eliminates the need to specify a hearing issue," and then designate the application for hearing with a short-spacing issue, when the applicant has a right under

¹In the HDO in this proceeding, the staff dismissed for the very same reason a similar "Petition to Deny, or in the alternative, to Dismiss" filed by Community Television of Southern California (CTSC) against Valley, in which CTSC sought dismissal of Valley's application because of its short-spacing to the reference coordinates of a long vacant allotment.

Section 73.3522(b)(2) to amend to eliminate the issue. Thus, in Unicorn Slide, the Video Services Division recognized that, where an opponent raises a short-spacing objection to an application pre-designation, the application will be designated for hearing with a short-spacing issue and the applicant has the right to

Section 73.3522(b)(2) to amend to eliminate the issue. Thus, in Unicorn Slide, the Video Services Division recognized that, where an opponent raises a short-spacing objection to an application pre-designation, the application will be designated for hearing with a short-spacing issue and the applicant has the right to

was not required by the voluntary act of the applicant; (3) that no modification or addition of issues or parties will be necessitated; (4) that the proposed amendment will not disrupt the orderly conduct of the hearing or necessitate additional hearings; (5) that other parties will not be unfairly prejudiced; and (6) that the applicant will not gain a comparative advantage. As is demonstrated below, Valley's amendment easily meets this test.

1. Valley Acted With Due Diligence²

As Valley has previously advised the Commission, Valley was unaware when it initially filed its application (on September 4, 1990) that its application proposed a transmitter site that was short-spaced to the reference point for the allotment for vacant Channel *25 in Ridgecrest, California. On October 22, 1990, Community Television of Southern California (CTSC) filed what was in essence an unauthorized pre-designation petition to specify issues titled, "Petition to Deny, or in the Alternative, to Dismiss," against Valley's above-captioned application, contending that Valley's application was inconsistent with Section 73.610(d) of the Commission's Rules and should not have been accepted for filing. As the staff pointed out in Unicorn Slide, however, the application, even without a request for waiver of the minimum spacing requirements, was substantially

²See also discussion at pages 14-16 infra.

complete and was acceptable, notwithstanding CTSC's Petition. Unicorn Slide, 8 FCC Rcd at 318.

Valley timely opposed CTSC's Petition, filing an Opposition to Petition to Deny on November 6, 1990. In its Opposition, Valley demonstrated that its short-spacing was only to the reference coordinates for Channel *25 at Ridgecrest and that there was a pending rulemaking proceeding, MM Docket 85-390, in which the Commission had proposed substituting Channel *41 for Channel *25 in Ridgecrest (which substitution would eliminate Valley's short-spacing). While an initial Report and Order, 2 FCC Rcd 5882 (1987), in that proceeding did not make the substitution, Valley noted that the Report and Order was subject to reconsideration and that Channel *41 was available for reallocation to Ridgecrest.

Valley also tendered on November 14, 1990, well within 30 days of receipt of CTSC's Petition, an Amendment and Request for Waiver, together with a Petition for Leave to Amend. In its Request for Waiver, Valley sought a waiver of Sections 73.610 and 73.698 of the Commission's Rules with respect to the mileage separation between its proposed transmitter site for Channel *39 in Bakersfield and the reference point coordinates for Channel *25 in Ridgecrest. As Valley explained, Ridgecrest is a small town in the eastern desert area of California. The only town within 10 miles of Ridgecrest is Inyokern, with a population of 800 persons. Channel *25 in Ridgecrest is vacant and has been since its allocation in 1966, more than 25 years ago. Prior to

"As you are aware, the proposed substitution of Channel *41 for Channel *25 at Ridgecrest was proposed in the context of MM Docket No. 85-390, but was not adopted. See 2 FCC Rcd 5882 (1987). A petition for reconsideration regarding that proceeding is pending. Therefore, it is inappropriate to consider the same substitution request at Ridgecrest in a separate proceeding, as contemplated by Valley's proposal."

On May 31, 1991, Valley timely filed a petition for reconsideration of the May 1, 1991 staff letter rejecting Valley's petition for rulemaking. Valley pointed out that neither of the two petitioners for reconsideration in MM 85-390 requested reconsideration of that portion of the Commission's decision that affected Channel *41. Thus, Channel *41 was available to be substituted for Channel *25 at Ridgecrest.

Valley's Petition for Reconsideration remained pending almost six (6) months until November 5, 1992. On November 5, 1992, the Allocations Branch released a Notice of Proposed Rule Making in MM Docket No. 92-246, 7 FCC Rcd 7164 (M.M. Bur. November 5, 1992). Therein, the Mass Media Bureau proposed amending the TV Table of Allotments to substitute Channel *41 for Channel *25 at Ridgecrest, as Valley requested in its above-referenced Petition for Rule Making. See Attachment 1 hereto. The date for comments was December 28, 1992; and the date for Reply Comments was January 12, 1993.

Valley filed its Comments on December 11, 1992, well in advance of the comment date. Only one other party filed comments in the proceeding: CTSC, which never participated in MM 85-390,

the allotment of Channel *25 to Ridgecrest, Channel *42 was allotted to Ridgecrest on June 4, 1965. No interest has ever been shown in either Channel *25 or Channel *42 at Ridgecrest. Valley also demonstrated that there were numerous locations in the Ridgecrest area at which a transmitter for Channel *25 could be located that would not result in any short-spacing to Valley's proposed site. Valley also again noted that reconsideration was still pending in MM Docket No. 85-390; thus, it was possible that Channel *25 would be removed from Ridgecrest.

While reconsideration of the Report and Order, 2 FCC Rcd 5882, in MM Docket No. 85-390 was still pending, Valley did not just sit back and wait for a resolution. Because the Report and Order did not affect Ridgecrest (although the Commission had initially proposed the substitution of Channel *41 for Channel *25 at Ridgecrest), Valley on January 8, 1991, submitted its own Petition for Rule Making, in which it requested the substitution of Channel *41 for Channel *25 at Ridgecrest. Valley very clearly explained that it was filing its Petition for Rule Making because the substitution of Channel *41 for Channel *25 at Ridgecrest would eliminate the short-spacing of Valley's Channel *39 Bakersfield application to the reference coordinates for vacant Channel *25 at Ridgecrest.

Valley's Petition was dismissed on May 1, 1991, by letter of the Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau. In its letter the staff explained:

filed Comments on December 28, 1992, opposing the channel substitution not for public interest reasons but precisely because it would eliminate the short-spacing of Valley's transmitter site to the reference coordinates for the allotment at Ridgecrest. See Attachments 3-4 hereto, copies of the docket histories for MM Dockets 85-390 and 92-246.

Valley timely filed Reply Comments on January 12, 1993. No other party submitted Reply Comments. See Attachment 4 hereto. The proceeding is still pending. Had CTSC not opposed the proposal it is very probable that the staff would have acted in the rulemaking proceeding and made the channel substitution at Ridgecrest before the above-referenced HDO was even released and no short-spacing issue would have been specified against Valley. Instead, the HDO was released while the rulemaking proceeding was still pending, and a short-spacing issue was specified.

Clearly Valley has been diligent. Upon realizing that its proposed site was short-spaced, Valley immediately amended its application to request a waiver of the minimum spacing rules and also set out to eliminate the short-spacing. Valley has at all times proceeded diligently. Valley is reluctantly tendering the amendment that is submitted herewith at this time only because the above-referenced rulemaking proceeding has not yet been concluded and Valley must tender an amendment to meet the short-spacing issue now or lose the opportunity of being able to amend to meet the issue as a matter of right. Also, Valley's amendment

is being tendered within 30 days of release of the Commission's recent decision in Imagists, discussed infra.

2. The Amendment Is Not Required By A Voluntary Act Of Valley

The amendment submitted herewith is being submitted involuntarily. Valley does not want to amend. Valley has consistently maintained that its current site is a vastly superior site to any other site it could locate, including that proposed by CTSC. Indeed, it is obvious that it is precisely because Valley's site is superior that CTSC is vigorously opposing Valley's efforts to eliminate its short-spacing to the Ridgecrest reference point through the rulemaking process.

Valley has proceeded over the last two and a half years to attempt to resolve its short-spacing through the rulemaking process because Valley did not want to amend to specify a different site. While Valley is confident that the rulemaking proceeding will eventually be resolved as Valley has proposed, Valley is nevertheless required to amend at this time, because it is the only opportunity Valley has to amend as a matter of right to resolve the issue and because the Commission in its April 23, 1993 decision in Imagists adopted a more stringent due diligence analysis that focuses on 30 days. Valley is submitting this amendment within 30 days of release of the decision in Imagists. While Valley would prefer to remain at its current site, Valley has no control over when the rulemaking proceeding (MM Docket 92-246) will be completed, particularly if CTSC is determined to

prevent a resolution of the rulemaking proceeding as long as the Bakersfield applications are pending.

This amendment is thus required not by Valley's voluntary act but by the long delays in the allotment proceeding,³ exacerbated by CTSC's opposition, and by the recent release of the HDO in this proceeding and the Commission's decision in the Imagists proceeding.

3. No Modification Or Addition Of Issues Or Parties Would Be Necessitated

The amendment submitted herewith will eliminate the need for a hearing on the short-spacing issue. It will not require a modification of issues or the addition of new issues or parties. As Valley's amendment certifies, all other representations in Valley's application remain unchanged.

4. The Proposed Amendment Will Not Disrupt The Orderly Conduct Of The Hearing Or Necessitate Additional Hearings

This case is still in the preliminary prehearing phase. Discovery has not yet commenced. Exhibits have not been prepared. The prehearing conference has not yet been held. The parties have not yet met to discuss the scope of the issues. As noted above, the amendment will eliminate the need to try an issue, and the issue is one in which the Mass Media Bureau would have been involved. Acceptance of the amendment will allow the issue to be resolved by summary decision and will therefore

³It should be recalled that, but for CTSC, no party has opposed the rulemaking. Further, the date for Reply Comments passed on January 12, 1993, four (4) months ago.

conserve the resources of the Commission and all parties. Thus, acceptance of the amendment will not disrupt the orderly conduct of the Commission's processes but will in fact expedite and facilitate the orderly conduct of the hearing.

5. Other Parties Will Not Be Prejudiced

The only other applicant in this proceeding will not be prejudiced by acceptance of this amendment. CTSC has known since at least October 1990 that Valley's current site is short-spaced to the Ridgecrest Channel *25 allotment, and CTSC has observed (and opposed) Valley's efforts to eliminate the short-spacing. Thus, CTSC is not unfairly prejudiced by an amendment from Valley that eliminates the short-spacing. Indeed, had CTSC not opposed the proposal in MM Docket 92-246, the short-spacing issue most likely would have been eliminated by now.

6. Valley Will Not Gain A Comparative Advantage

It is well settled that Valley cannot improve its comparative position by acceptance of a post B cut-off date amendment, and the amendment submitted herewith will not improve Valley's comparative position. At the site currently proposed by Valley in its pending application, Valley provides a Grade B contour over an area of 12,370 sq. km., encompassing a population of 453,127 persons (1990 Census population figures; see Attachment 2 hereto).⁴ In the amendment submitted herewith,

⁴As originally filed, Valley's application used population figures based upon the 1980 census; since 1990 census figures were not yet available.

Valley proposes that, from its "new" transmitter site, its Grade B contour would be reduced to an area of 9,350 sq. km., encompassing 450,205 persons. Thus, acceptance of the amendment submitted herewith will not improve Valley's comparative position. Both the area and population Valley proposes to serve will be reduced by acceptance of this amendment.

B. The Amendment Also Satisfies The Criteria For Engineering Amendments

Section 73.3522(b) (1) also includes two additional good cause requirements for engineering amendments: (i) that the amendment is necessitated by events which the applicant could not reasonably have foreseen; and (ii) that the amendment does not require an enlargement of issues or the addition of new parties to the proceeding. The second of these criteria has already been addressed above. The amendment submitted herewith will not require an enlargement of issues or the addition of new parties. Indeed, it will resolve an issue specified against Valley.

The first criterion is also met. As has been demonstrated above, Valley proceeded diligently to resolve its short-spacing through the rulemaking process, recognizing that no one had expressed any interest in the Ridgecrest allotment since a noncommercial channel was allotted there in 1965, almost 30 years ago, and that the Commission had already proposed a channel change in Ridgecrest (long before Valley filed its application) that would eliminate Valley's short-spacing problem. Valley could not reasonably have foreseen that an allotment proceeding

(MM Docket 85-390) that commenced in 1985 would not be completed until September of 1992. Valley could not have reasonably foreseen that CTSC; which had never expressed any interest whatsoever in the allotment at Ridgecrest, would oppose a channel change there that does not affect any licensee, permittee, applicant, or entity but Valley.⁵ Valley had every reason to believe that the allotment proceedings involving Ridgecrest would be resolved before designation of its application for hearing. Valley had no way to expedite the rulemaking process. Unfortunately, CTSC had the means to delay the process and did so.

C. The Amendment Also Satisfies the Commission's Recent Decision in Imagists

In a Memorandum Opinion and Order in the recent Conroe, Texas, television proceeding, Imagists, supra, the Commission discussed its due diligence standard in the good cause analysis for acceptance of post-designation amendments. The Commission held that, as "an initial matter, an applicant must show that it acted promptly after it discovered, or it should have discovered, the potentially disqualifying deficiency." See Imagists, FCC 93-196, slip op. at 3. The Commission also observed that, "Clearly, an applicant that sits idly by, either doing nothing or pursuing

⁵Indeed, since no one had ever expressed any interest in the allotment at Ridgecrest, Valley had no reason to believe that anyone would file any comments in MM Docket No. 92-246 other than Valley itself.


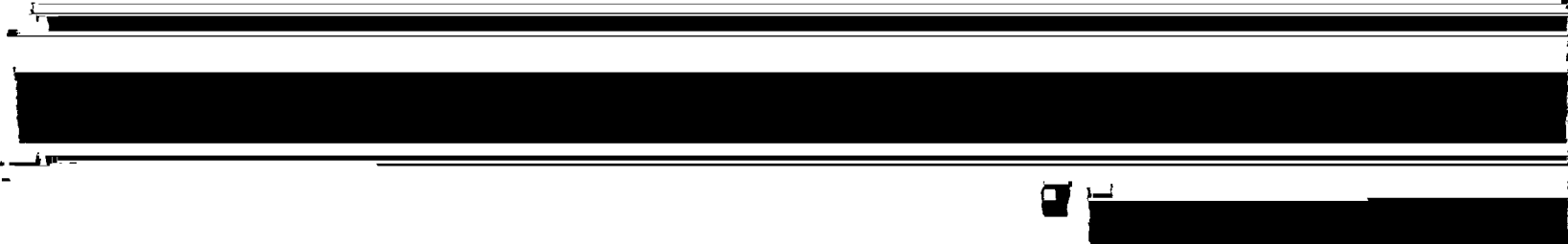

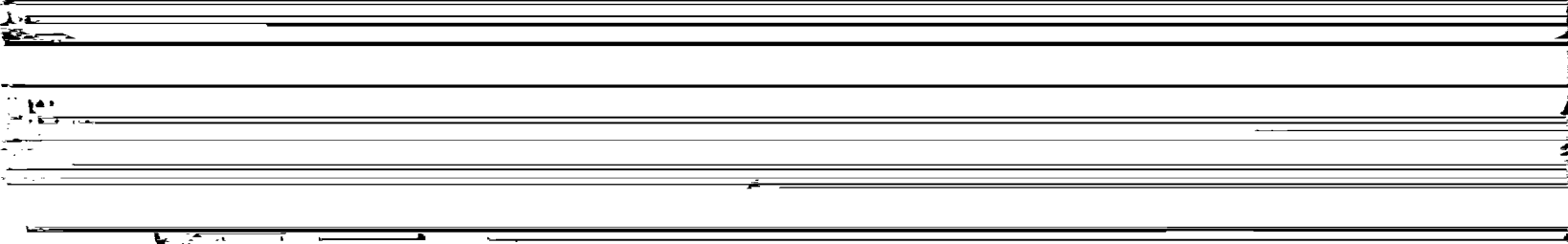
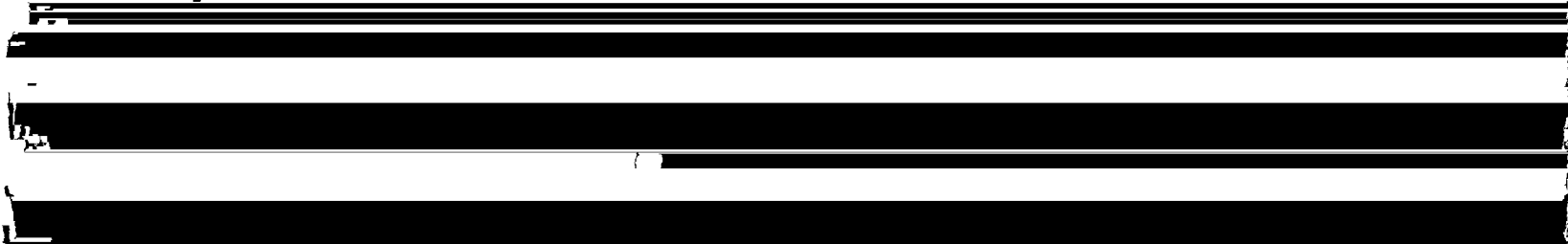
a course of action that is not likely to resolve the problem expeditiously, lacks diligence." Id.

As Valley has demonstrated above, it did not sit idly by doing nothing. At each step after CTSC filed its petition against Valley's application, alerting Valley to the short-spacing, Valley acted within 30 days of each action that affected Valley's application.

Moreover, Valley pursued a course of action that was likely to resolve its problem expeditiously. At the time Valley filed its application and at the time CTSC filed its Petition against Valley, the Commission had already proposed a channel substitution at Ridgecrest in pending MM Docket 85-390 that eliminated Valley's problem, and no party had opposed that proposed substitution. No party had shown any interest in the Ridgecrest allotment whatsoever. When action on reconsideration in Docket MM 85-390 appeared to be sluggish, Valley filed its own Petition for Rule Making; and when that Petition was dismissed, Valley promptly filed a Petition for Reconsideration. Indeed, Valley's efforts led to what Valley sought, and the Commission proposed again the substitution of Channel *41 for Channel *25 in Ridgecrest in MM Docket 92-246. But for CTSC's interference, that substitution would most likely have been made by now. Thus, like the applicant in Radio Lake Geneva Corp., 7 F.C.C. Rcd 5586, 5589-90 (Rev. Bd. 1992), that chose to "fight rather than switch," Valley's actions were sufficiently reasonable, prudent

and diligent to establish due diligence and good cause for its amendment. See Imagists, slip op. at 3. n. 12.

Finally, unlike the applicant in the Imagists proceeding, which delayed almost 5 months after the Hearing Designation Order was released, Valley has submitted its amendment within the 30 day period specified in Section 73.3522(b)(2) of the Rules. As the Commission noted in Imagists, Section 73.3522(b) "affords applicants 30 days after the designation order to file amendments addressing any matter raised therein as a matter of right and




judgment for that of the Presiding Officer. The general guideline governing the Judge's determination is that the Commission has a public interest obligation to provide new service to the public as expeditiously as possible. Id. Valley has consistently moved expeditiously. At no point has Valley taken any step that would delay service to the public. Valley's amendment affords the Judge the opportunity to eliminate the short-spacing issue at the very outset of this proceeding before any time and resources are devoted to the issue. Valley has clearly met all applicable tests for acceptance of its amendment.

WHEREFORE, for the foregoing reasons, it is respectfully requested that the amendment submitted by Valley simultaneously herewith be accepted.

Respectfully submitted,

VALLEY PUBLIC TELEVISION, INC.

By:


Richard Hildreth
Vincent J. Curtis, Jr.
Patricia A. Mahoney

Its Attorneys

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May 13, 1993

ATTACHMENT 1

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 92-246

In the Matter of

Amendment of Section 73.606(b).
Table of Allotments.
TV Broadcast Stations.
(Ridgecrest, California)

RM-8091

NOTICE OF PROPOSED RULE MAKING

Adopted: October 5, 1992; Released: November 5, 1992

Comment Date: December 28, 1992
Reply Comment Date: January 12, 1993

By the Chief, Allocations Branch:

1. The Commission has before it a petition for rule making filed by Valley Public Television, Inc. ("petitioner"), licensee of educational television Station KVPT,

of Channel *25 to Ridgecrest would eliminate the short-spacing. Valley further contends that the allotment of Channel *41 to Ridgecrest will maximize the efficient use of Channel *39 in Bakersfield by permitting operation of the channel from Valley's preferred site, releasing Channel *25 for use in another community and permitting the retention of an educational television channel allotment at Ridgecrest. Valley argues that Channel *25 at Ridgecrest cannot currently be used because of the freeze instituted in light of the advanced television proceeding.² Valley points out that there has been no interest shown in Channel *25 since its allotment 25 years ago. Valley further states that the allotment of Channel *41 to Ridgecrest poses no technical problems and would have no adverse effect on any other allotments or operating stations. Alternatively, Valley maintains that Channel *25 could be retained at Ridgecrest with a site restriction that would clear Valley's application.

3. We believe the public interest would be served by seeking comments on the substitution of Channel *41 for Channel *25 at Ridgecrest, or alternatively, the placement of a site restriction on Channel *25, to accommodate Valley's application site for Channel *39 at Bakersfield.³

4. Channel *41 can be allotted to Ridgecrest in compliance with the Commission's minimum distance separation requirements with a site restriction of 0.5 kilometers (0.3 miles) southwest of the community.⁴ Alternatively, Channel *25 can be site restricted to accommodate Channel *39 at Bakersfield with a site restriction of 10.6 kilometers (6.6 miles) east of the community.⁵

5. Accordingly, we seek comments on the proposed

and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

7. Interested parties may file comments on or before **December 28, 1992**, and reply comments on or before **January 12, 1993**, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Lonna M. Thompson, Esq.
Richard Hildreth, Esq.
Fletcher, Heald & Hildreth
1225 Connecticut Avenue, N.W., Suite 400
Washington, D.C. 20036-2679

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the Television Table of Allotments. Section 73.606(b) of the Commission's Rules. See *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b) and 73.606(b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

9. For further information concerning this proceeding, contact Arthur D. Scrutchins, Mass Media Bureau, (202) 634-6530. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61 0.204(b) and 0.283 of the Commission's Rules, **IT IS PROPOSED TO AMEND** the TV Table of Allotments. Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut - off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.